

NOMINATIONS OF JAMES H. ATKINS AND SCOTT B. LUKINS

Y 4. G 74/9: S. HRG. 103-921

Nominations of James H. Atkins and...

HEARING BEFORE THE COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

NOMINATIONS OF JAMES H. ATKINS AND SCOTT B. LUKINS TO BE
MEMBERS OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

OCTOBER 4, 1994

Printed for the use of the Committee on Governmental Affairs



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1995

83-682CC

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-046661-X

NOMINATIONS OF JAMES H. ATKINS AND SCOTT B. LUKINS

Y 4. G 74/9: S. HRG. 103-921

Nominations of James H. Atkins and...

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

NOMINATIONS OF JAMES H. ATKINS AND SCOTT B. LUKINS TO BE
MEMBERS OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

OCTOBER 4, 1994

Printed for the use of the Committee on Governmental Affairs



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1995

83-682 CC

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-046661-X

COMMITTEE ON GOVERNMENTAL AFFAIRS

JOHN GLENN, Ohio, *Chairman*

SAM NUNN, Georgia

CARL LEVIN, Michigan

JIM SASSER, Tennessee

DAVID PRYOR, Arkansas

JOSEPH I. LIEBERMAN, Connecticut

DANIEL K. AKAKA, Hawaii

BYRON L. DORGAN, North Dakota

WILLIAM V. ROTH, JR., Delaware

TED STEVENS, Alaska

WILLIAM S. COHEN, Maine

THAD COCHRAN, Mississippi

JOHN MCCAIN, Arizona

ROBERT F. BENNETT, Utah

Leonard Weiss, *Staff Director*

Doris Clanton, *Assistant Counsel*

Deborah Cohen, *Staff Assistant*

Franklin G. Polk, *Minority Staff Director and Chief Counsel*

Susanne Marshall, *Minority Deputy Staff Director*

Michal Sue Prosser, *Chief Clerk*

(II)

CONTENTS

Opening statement:	Page
Senator Pryor	1
Prepared statement:	
Speaker of the House Thomas S. Foley	2

WITNESSES

TUESDAY, OCTOBER 4, 1994

James H. Atkins, to be a Member and Chairman, Federal Retirement Thrift Investment Board	3
Biographical and financial information	5
Responses to prehearing questions	8
Scott B. Lukins, to be a Member, Federal Retirement Thrift Investment Board	3
Biographical and financial information	12
Responses to prehearing questions	16

(III)

NOMINATIONS OF JAMES H. ATKINS AND SCOTT B. LUKINS TO BE MEMBERS OF THE FEDERAL RETIREMENT THRIFT INVEST- MENT BOARD

TUESDAY, OCTOBER 4, 1994

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:46 a.m., in room SD-342, Dirksen Senate Office Building, Hon. David Pryor presiding.

Present: Senator Pryor.

Staff Present: Doris Clanton, Deborah Cohen, and Jane McFarland (Senator Glenn); Susanne Marshall, (Senator Roth); Kim Weaver (Senator Pryor); and Pat Raymond (Senator Stevens).

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR [presiding]. Ladies and gentlemen, our Committee will come to order. I think everything is in order for the Committee to now proceed.

Senator John Glenn, the Chairman of the Governmental Affairs Committee, has asked me to chair today's hearing to consider the nominations of Mr. James H. Atkins and Scott Lukins to be Chairman and a Member, respectively, of the Federal Retirement Thrift Investment Board.

Mr. Atkins has been a member of the board since October of 1988 and he has been acting Chairman since the beginning of this year. The Committee's rules require that an inquiry be conducted into each nominee's experience, qualifications and suitability to serve in the position for which the President has nominated that individual.

In this regard, the Committee has received from each nominee a financial statement and detailed information on education, employment and professional accomplishments. The nominees have also responded in writing to a number of pre-prepared hearing questions. Copies of this biographical information and prehearing question responses will be placed in the record as a part of this hearing.

The financial statement will be available for public inspection in the Committee office. Committee staff has interviewed the nominees prior to today's hearings. In addition, the Committee staff has reviewed opinion letters regarding the nominees from both the Of-

fice of Government Ethics and the designated agency ethics officers.

Finally, Senators Glenn and Roth, the Committee Chairman and ranking minority member, have reviewed the FBI background investigation report on the nominees today. I would like to say Mr. Atkins is a longtime personal friend. We grew up in the same hometown of Camden in Ouachita County and have been lifelong friends since boyhood.

Mr. Lukins, was to be introduced this morning by Speaker Tom Foley. Unfortunately, Speaker Foley is now engaged in a vote on the House floor, has called our Committee office and has stated that he, with much regret, is having to decline the invitation to come and present Mr. Lukins to the Committee today. Speaker Foley will, I should add, have a statement in writing in support of Mr. Lukins.

PREPARED STATEMENT BY SPEAKER OF THE HOUSE THOMAS S. FOLEY

Mr. Chairman, Members of the Committee; I support the nomination of Scott Lukins, a man whom I have known and admired for many years, to serve on the Federal Retirement Thrift Investment Board. Scott has distinguished himself professionally. For thirty-five years he has been a practicing attorney specializing in taxes, estate planning, and business and banking law.

He has hands-on, practical experience managing financial investments and pension benefit plans as a member of the Board of Directors of WTIA Investments, Inc., an investment advisory subsidiary of W.T.B. Financial Corporation. He has advised—and qualified with the Internal Revenue Service—more than 20 pension and profit sharing plans, as well as being a trustee of the Lukins & Annis, P.S. Profit Sharing Plan. In his long and illustrious career, he has been a member of the trust committee of Washington Trust Bank, and a trustee of eight private trusts, three charitable remainder trusts, and four private foundations.

He was the organizer and Chairman of the Board of Community Bancorporation, and Director of the Bank of Pullman. He has been on the Board of the Washington Trust Bank, Community Bancorporation, the Bank of Pullman, Jensen-Byrd Co., Idaho Forest Industries, Inc., Pacific Northwest Bell Telephone Company, and currently he is on the Washington Executive Board of US West Communications, Inc.

He is a member of the American College of Estate and Trust Lawyers, former Chairman of the Tax Section of the Washington State Bar Association, former Chairman of the Tax Section, Western Region Liaison, of the American Bar Association; and has been designated by the American Bar Foundation as one of the "Best Lawyers" in Washington State in tax law, and estate and trust law.

But beyond his extraordinary professional experience, Scott has always tried to give something back to the community. He has been a member and is a former President of the Board of Regents of Washington State University; former Chairman of the Spokane Area Chamber of Commerce, President of the Spokane Symphony Orchestra, and a Trustee of the Spokane Symphony Endowment Fund.

Scott has been an Executive board Member on the Inland Empire Council of the Boy Scouts of America, and has even been the recipient of its Distinguished Eagle Scout Award.

He is a 1951 graduate of Harvard University; the University of Washington School of Law where he received a J.D. in 1954; and New York University Law School where he received his L.L.M. in Taxation in 1955. Scott also received an honorary Doctor of Laws from Gonzaga University in 1993.

Those are the facts about Scott Lukins. Now, let me tell you the kind of person he is. We have known each other for many years. His counsel and his perspective have always been important to me. His intelligence, dedication, honesty, and integrity have always been important to him; and he has lived his life with an understanding that whatever success he has achieved, it is always important to give something back—to stay involved, and to make a difference.

I know Scott Lukins, and I know that this Committee, the Federal Retirement Thrift Investment Board, and the Nation would be well served by his appointment. I cannot say enough about this extraordinarily experienced professional, and this man whom I am proud to call my friend.

I hope that this Committee, Mr. Chairman, will act favorably on the nomination of Scott Lukins because, if we in public service can reach out to willing professionals like Scott to serve in leadership positions, we will have brought the best of America to bear on the ability of government to serve the best interest of every American.

Senator PRYOR. I might say, Mr. Lukins, you are very fortunate to have a friend such as Speaker Tom Foley as your sponsor.

Mr. Atkins, are there any family members or close friends present today to share this occasion whom you might like to recognize?

Mr. ATKINS. No, sir.

Senator PRYOR. Mr. Lukins, are there any family members or close friends present today to share this occasion with you whom you might like to recognize?

Mr. LUKINS. Yes, Senator Pryor, my daughter, Kelly Propp and my grandson, Alexander Propp.

Senator PRYOR. Good. I welcome the both of you here this morning.

The Committee rules require that the nominees be under oath while testifying on all matters relating to their suitability for office, including policies and programs which they will pursue while in their respective positions. So therefore, I would ask Mr. Atkins and Mr. Lukins if you would please stand, if you would raise your right hand and repeat after me: Do you swear to tell the truth, the whole truth and nothing but the truth, so help you, God, if you would give your answer?

Mr. ATKINS. I do.

Mr. LUKINS. I do.

TESTIMONY OF JAMES ATKINS, TO BE A MEMBER AND CHAIRMAN, FEDERAL RETIREMENT THRIFT INVESTMENT BOARD, AND SCOTT LUKINS, TO BE A MEMBER, FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Senator PRYOR. Do either of you have a statement that you would like to make? Any prepared statement you have will be inserted and made a part of the record

Mr. ATKINS. No.

Senator PRYOR. Mr. Lukins?

Mr. LUKINS. No, I do not.

Senator PRYOR. Any statements that you desire to put in the record will be welcomed.

I have several questions that are required to be asked of each nominee. There are three of these questions. Is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Are there any such conflicts?

Mr. LUKINS. No conflict.

Senator PRYOR. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. LUKINS. No, I do not

Mr. ATKINS. Are we answering together right now?

Senator PRYOR. Yes, if you would answer together

Mr. ATKINS. No, I do have. There is a possibility of a conflict. I am a managing director of Marsh and McLennan. Marsh and McLennan has handled several insurance policies for the Thrift Board for many years, even before I went on the board. And I disclosed this in writing to the Committee, that I would recuse myself in the event that anything regarding Marsh and McLennan came before the board at any time.

Senator PRYOR. Mr. Atkins, we appreciate you noting that and the Committee will take note of that statement. Thank you very much for discussing it with us.

If confirmed, do you agree without reservation to appear and to testify before any duly constituted committee of the Congress? Do you so agree to do that

Mr. ATKINS. Yes.

Mr. LUKINS. Yes.

Senator PRYOR. Both of you are very well qualified for the positions to which you have been nominated. I am sure that Senator Glenn has every intention of moving expeditiously to see that the Committee and the Senate complete consideration of your nomination.

As you know, we are trying to adjourn or at least to recess by October 7th, which is only 3 days away. We would love very much to have your nominations confirmed by the Senate before that time. We are going to try to do this. In fact, we have a markup scheduled for tomorrow in the Committee to consider these and other nominations by the Full Committee.

The hearing record, nevertheless, will be kept open so that members of the Committee may have an opportunity to submit additional written questions to you. I urge you to reply as promptly as possible to any such questions. We want to wish you the best of luck in these positions.

The Chair would like to take note of some real growth in this Thrift Savings Plan. I think it might be interesting to note that I asked Mr. Atkins this morning. You took office as a Member of the board in 1988; I would like to know, what did the thrift savings fund total at that time?

Research has produced the fact that the fund had \$2.2 billion in assets in 1988. Just a few years later, this fund now totals \$25 billion, with new contributions adding some \$400 million per month. There are more than 2.1 million Federal and Postal employees who now have accounts with this particular fund. I am one of those 2.1 million Federal employees and I trust that you gentlemen will invest our savings very, very carefully and get us the best return on our dollars.

We want to wish both of you the best of luck. We know that you are anxious for this nomination to proceed and we will move it as expeditiously as humanly possible.

There is no other business to come before the Committee. Our Committee stands adjourned.

[Whereupon, at 10:56 a.m., the Committee was adjourned.]

APPENDIX

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name:
James Howard Atkins (nickname "Bum")
2. Position to which nominated:
Chairman—Federal Retirement Thrift Investment Board
3. Date of nomination:
4. Address:
Residence: 42 Edgehill Road, Little Rock, AR 72207
Business: 105 West Capitol Avenue, Little Rock, AR 72201
5. Date and Place of Birth:
November 14, 1931—Camden, Arkansas
6. Marital status: (Include maiden name of wife or husband's name)
Married—Kathleen Ledwidge Wright
7. Names and ages of children:
Catherine Page Atkins—age 25; Mary Wright Atkins—age 23
8. Education: List secondary and higher education institutions, dates attended, degree received and date degree granted.
 - (1) Camden High School, High School Diploma Camden, Arkansas—1945 thru 1949
 - (2) State College of Arkansas, September 1949 thru May 1952, Conway, Arkansas
 - (3) University of Arkansas, September 1952 thru May 1954, Fayetteville, Arkansas, Bachelor of Science in Business Administration
9. Employment Record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.
 1. United States Army, October 1955 thru October 1957, Fort Meade, Maryland, Clerk, Specialist Third Class
 2. United States Fidelity & Guaranty Co., Auditor, Little Rock, Arkansas, October 1957 thru June 30, 1960
 3. Worthen Agency, Inc., Vice President, July 1, 1960 thru September 1967
 4. Cobb, Atkins, Boyd & Eggleston, Vice President & President, September 1967 thru 1976
 5. Atkins Insurance Corp., Inc., President, 1976 thru December 1985
 6. Marsh & McLennan, Inc., Managing Director, December 1985 to present (Worthen Agency sold to Cobb, Atkins, Boyd & Eggleston, Cobb, Atkins, Boyd & Eggleston's name was changed to Atkins Insurance Corporation and Atkins Insurance Corporation was sold to Marsh & McLennan, Inc.)
10. Military Service: List any military service, including dates, rank, and type of discharge.
United States Army—October 1955 thru October 1957, Specialist Third Class—Honorable Discharge
11. Government Experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
Federal Retirement Thrift Investment Board, October 1988 to present, Board Member
Arkansas State Banking Board, Board Member
Arkansas War Memorial Stadium Commission, Board Member
12. Previous Appointments: Prior to this appointment, have you ever been nominated for a position requiring confirmation by the Senate? If so, please list each

such position, including the date of nomination, Senate Confirmation, and Committee hearing, if any.

Federal Retirement Thrift Investment Board, Board Member

Date of nomination—September 16, 1988, Senate Confirmation Committee on Governmental Affairs, United States Senate.

13. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

- (1) Marsh & McLennan, Inc., Managing Director
- (2) Worthen Banking Corporation, Director
- (3) Federal Retirement Thrift Investment Board, Board Member
- (4) Atkins Development Company, General Partner

14. Memberships: List all memberships and offices held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations. Memberships (current)

- (1) Little Rock Country Club
- (2) Little Rock Club
- (3) Capital Club
- (4) Arkansas Arts Center, Trustee (Past President)
- (5) Arkansas Community Foundation, Board Member

Previous Affiliations

- (1) Little Rock Chamber of Commerce, Past President
- (2) Arkansas Symphony, Past Vice President
- (3) March of Dimes, Past President
- (4) Arkansas Association of Insurance Agents, Past President
- (5) Little Rock Insurance Exchange, Past President

(See attached resume for more detailed information)

15. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 5 years.

Senator David H. Pryor, \$1,000.00

Senator Dale Bumpers, \$500.00

Congressman Ray Thornton, \$500.00

Governor Jim Guy Tucker, \$1,000.00

Mark Pryor (Democratic candidate for Attorney General of Arkansas)
\$1,000.00

Jay Bradford, (Democratic candidate for Congress) \$200.00

16. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Arkansas Community Development Award.

17. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written. It would be helpful for the Committee to have three copies of each published writing. Please denote any of those for which you are unable to provide copies.

None.

18. Speeches: Provide the Committee with three copies of any formal speeches you have delivered during the last 5 years of which you have copies and are on topics relevant to the position for which you have been nominated.

None.

19. Congressional Testimony: Have you ever testified before a Committee of the Congress? If so, please provide details, including dates.

Committee on Governmental Affairs, September 16, 1988, in conjunction with nomination to the Federal Retirement Thrift Investment Board.

20. Selection:

(a) Do you know why you were chosen for this nomination by the President?

My assumption is that it is because of my experience of serving since October 1988 on the Federal Retirement Thrift Investment Board and because the Board elected me as acting chairman of this Board in January 1994.

(b) what do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

My experience as a business man as well as history on the Federal Retirement Thrift Investment Board.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?
No.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, please explain.

None other than present affiliations.

3. Do you have any plans, commitments or agreements after completing governmental service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No, I will continue in all of my present relationships while serving on the Board.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

I will continue to serve as a Managing Director of Marsh & McLennan, Inc., as a Director of Worthen Banking Corp. and as General Partner in Atkins Development Company, Limited Partnership.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Marsh & McLennan, Inc. provides various insurance coverages for the Federal Retirement Thrift Investment Board.

I am a Managing Director of Marsh & McLennan, Inc. I will reclude myself on all matters that might involve Marsh & McLennan, Inc. as I have in the past.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None other than the situation mentioned in 2. above.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

None.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide copies of any trust or other agreements.)

I will reclude myself from participating in discussions or voting on any matter that might be perceived as a conflict.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None that I am aware of.

E. FINANCIAL DATA

(Retained in Committee Files)

PREHEARING QUESTIONS FOR JAMES ATKINS TO BE A MEMBER AND CHAIRMAN OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

I. NOMINATIONS PROCESS AND POTENTIAL CONFLICTS

1. Were any conditions, express or implied, attached to your nomination as Chairman of the Federal Retirement Thrift Investment Board (FRTIB)?

No.

2. Have you made any specific commitments with respect to the basic policies and philosophy which you will follow while Chairman of the Thrift Investment Board?

No.

3. To your knowledge, did persons representing interests that could be influenced by the FRTIB actively support or endorse your nomination? If so, please explain.

No.

4. Is there any issue currently under consideration by the Thrift Board, or any which may come under consideration, from which you may have to disqualify yourself? If so, please explain.

No.

5. Do you have any interest in any corporation, partnership, association, or other entity whose interest may be affected significantly by the Board?

Marsh & McLennan, Inc. has a subsidiary, The Putnam Companies, Inc. which might in the future provide investment advice to the Board. They do not, to my knowledge, provide any service for the Board at this time. I will abstain from any vote before the Board involving any transactions with Putnam.

Marsh & McLennan, Inc. provides certain insurance policies for the Board. This relationship began before my appointment to the Board in October 1988. I will abstain from any vote before the Board involving any transaction with Marsh & McLennan, Inc.

II. ROLE AND RESPONSIBILITIES OF THE POSITION TO WHICH NOMINATED

1. What do you believe are the most important responsibilities of the position to which you are nominated and what challenges do you expect to face?

Members of the Board must act prudently in adopting investment policies for the Board. Since investment vehicles are rapidly changing, the Board faces the challenge of utilizing the best investment available at any time.

2. What contributions do you feel you can make to the Thrift Board as its Chairman?

My background in finance through my own insurance firm, and from serving as a director of a national bank and of the Arkansas State Bank Department should be of benefit to the Board. My experience of having served on the Federal Retirement Thrift investment Board since October of 1988 should also be beneficial.

III. ROLE OF THE THRIFT BOARD

1. How do you view the role and responsibilities of the Thrift Board?

The Board should adopt overall policies for the administration of the Thrift Savings Plan and review the implementation and operation of the Plan.

2. The Thrift Board is an independent agency. What do you consider to be the proper relationship between the Board and the President and the Congress?

The Board should exert its duties in establishing policies independently, but close cooperation among the Board, the administration and the oversight committees of Congress is essential to the efficient operation of the Plan.

3. On what model do you think the Board should operate a private pension plan or a federal agency model? On what statutory basis do you base your view of the function of the Board?

The Board should have some characteristics of both. The Board should exercise its duties in a prudent manner, cognizant of its fiduciary responsibilities (5 U.S.C. S. 8477), like a private pension plan. But the Board is clearly a Federal Agency. (5 U.S.C. S. 8742(a)) and, as such, is subject to rules pertaining to public service.

4. How do you view the current statutory division of responsibilities between the Board members, as policy-makers, and the Executive Director, the chief executive office of the agency?

5 U.S.C. S. 8472 describes the responsibilities of the Board. 5 U.S.C. S. 8474 describes the responsibilities of the Executive Director. Generally, the Executive Director is responsible for the day-to-day management of the Plan and the Board is charged with oversight and supervision.

(a) Do you consider the Executive Director to be accountable Board members for his actions and decisions?

Yes.

(b) Should there be oversight or reporting mechanisms available to Board members to keep them apprised of, or allow evaluation of, actions or decisions taken by the Executive Director?

Yes.

5. Should Board members have any management responsibilities in addition to their policy-making duties?

No.

6. Do you consider a long-term planning policy for the Board to be required by statute?

Although not specifically required by the statute, prudent operation of any institution requires long term planning. I believe it is an implied part of the Board's duties.

7. Do you believe the current funding system is adequate? Are there any changes you would like to see made?

Yes, but I feel the Board needs to always be open and look at other options as they may arise in the future.

IV. OPERATIONS OF THE THRIFT BOARD

1. Federal employees participating in the TSP currently have the option of investing in one or more of three investment funds: a government securities fund, a common stock fund, and a fixed income fund. The Thrift Investment Board is beginning to evaluate investment options, for example, a stock fund based on foreign stocks.

It seems clear that the federal government should try to maintain competitive pay and benefits relative to other employers, in order to attract and retain quality people in the career federal services.

(a) What is your assessment of the current competitiveness of the TSP relative to other employer-sponsored retirement investment/savings plans?

Based on surveys available to the Board, the benefits of the benefits of the TSP fit within the range of benefits offered under comparable private sector plans, and thus are competitive with them.

(b) What administrative and legislative modification(s), if any, do you think would benefit the TSP without significantly increasing costs to the government?

The government does not bear the costs of any TSP improvements, since the TSP is funded from earnings on participants' funds. The Board is about to undertake a comprehensive "third party review" to analyze the TSP computer system capacity for modifications for additional investment funds and daily valuation of accounts, matters which the Board is now considering. When that study is completed (probably by mid-1995), the Board will determine the appropriateness of any legislative or administrative changes that the study suggests.

2. When the FERS system was designed, the TSP portion of the FERS retirement benefits package was intended to provide a large part of the retirement incomes of those who complete federal service careers. While active participation in the TSP

among FERS employees has gradually increased in the years since its inception (to about 75% as of March 1994), a significant number of FERS employees—many of whom are newer, lower-salaried employees—are not actively participating.

(a) What do you think the FRTIB can do to increase the participation rate?

The key to participating is employee communications. The Board has undertaken a vigorous education program, both directly with eligible employees and indirectly through the employing agencies of government who deliver basic retail TSP services to their employees. Additionally, the Board coordinates with the agency retirement counselors who, by law, have the primary responsibility (under the direction of the U.S. Office of Personnel Management), for advising employees of the benefits available to them under the Federal retirement system.

This approach seems sensible and has produced continuous growth; the FERS participation rate has increased steadily over the past eight years and currently stands at 75.5 percent. I would be committed to continuing this vigorous education program.

(b) Do you think there are attributes of the current TSP that actually discourage FERS employees from program participation? If so, what might be done to reduce that adverse impact?

No.

3. Among a number of proposals reportedly under consideration by the Bipartisan Commission on Entitlements and Tax Reform to reduce current federal entitlement program costs is a proposal to reduce the amount of the government's contribution to the TSP accounts of FERS employees. Do you favor the implementation of such a proposal?

The level of government contributions to the TSP was established by law after three years of study to develop the Federal Employees' Retirement System as a replacement for the Civil Service Retirement System. The current contribution limits are based on judgments by the Congress and the Administration concerning comparable replacement rates, the other retirement system components, private sector practices, and relevant Internal Revenue Code provisions. The Board has responsibility for only the TSP component of the retirement package, and it lacks the broad jurisdiction necessary to assess fully or make recommendations regarding possible changes in benefit levels.

Nevertheless, a reduction in the current matching arrangement would clearly make the program less attractive to employees and thus adversely affect the participation rate.

4. Some civil service annuitants (including survivor annuitants) have expressed an interest in participating in the TSP under essentially the same conditions as do current CSRS-covered employees (i.e., that they be allowed to invest up to 5% of their gross civil service annuities in the TSP without any matching government contributions.)

These annuitants point to the fact that they are already allowed to participate in the other major employee benefits programs (the Federal employee health benefits and life insurance programs) as retirees. Since the fund's administrative expenses are largely paid from earnings on participant contributions, the government's net costs for allowing their participation might not significantly increase. Recognizing that legislation would be necessary to accomplish such a change—

(a) What do you see as the pros and cons of this proposal?

The Thrift Savings Plan was established by FERSA as a retirement plan for active Federal employees. Section 7701(j) of the Internal Revenue Code treats the TSJP for tax purposes as a "cash or deferred arrangement," similar to such arrangements for private sector employees described in section 401(k) of defer taxation on a portion of their earnings while actively employed, if those amounts are placed in a trust which will be invested and then used solely to fund retirement benefits for the employee. Limits are placed upon the employee's ability to withdraw the funds under any circumstances.

Cash or deferred arrangements are not permitted to accept contributions from participants who are not actively employed. Although an employee may leave an account in the Plan after retirement, the Code also contains provisions which require the employee to withdraw that money from the Plan during his or her expected lifetime. All of these provisions are designed to ensure that the favorable tax treatment accorded these funds accomplishes the Congressional purpose of funding retirement income. Both FERSA and the Code currently impose similar restrictions on TSP participants.

To allow Federal annuitants to contribute part of their annuity payments to the TSP would be inconsistent with the basic design of the TSP as a retirement plan. Also, providing annuitants who are already receiving retirement benefits

under the Federal basic annuity programs with such an additional tax deferral feature would not appear to be necessary to fulfill the Congressional purpose of providing them with an adequate retirement income.

(b) Do you favor its implementation in principle?

It would seem inconsistent with the basic design discussed above, and thus I would have no basis to favor such a change.

5. Currently, a federal employee is permitted to borrow from his or her TSP account in only a very limited number of circumstances (i.e., for purchase of a primary residence, to meet education or medical expenses, or for reasons of financial hardship).

Those who favor narrow limits on borrowing argue that TSP funds are intended to provide a key part of a retiree's post-employment income and should, therefore, be accessible only on a very sparing basis prior to retirement. Those who favor expanding the current borrowing provisions argue that these funds belong not to the government but to the employees, and that these funds should therefore be made available to the employees when and as they deem appropriate.

Do you favor any changes to the current restrictions on borrowing?

FERSA enumerates four specific purposes for which an employee may borrow from his or her TSP account. These purposes are similar to those for which the Internal Revenue Service rules allow private sector plans to offer in-service withdrawals by employees facing financial hardships. It was the intent of Congress when FERSA was enacted to offer employees a source of liquidity through such loans. The current arrangement continues to achieve its purpose, and, I would not have a basis for recommending a change.

6. The FRTIB has an agreement with the Department of Agriculture's National Finance Center (NFC), in New Orleans, Louisiana, to provide recordkeeping services for the TSP, and the NFC maintains the accounts of TSP participants. In recent years, the NFC has assumed an increasingly large and complex financial management role as more and more agencies have found it more cost effective and expeditious to have NFC provider for their financial management needs than to operate their own financial management systems.

What evaluative and/or system safeguards do you think the FRTIB should prudently have in place to ensure that the NFC provides consistently timely and accurate financial management support for the TSP?

The Board requires automated financial controls, manual procedures, and segregation of duties in order to assure that the results of Plan asset accounting activities continue to be accurate and timely. These controls are applied consistently, and mechanisms are in place to discover and correct errors immediately.

With respect to evaluative mechanisms, the Board is attentive to any audit recommendations addressed to it either by the Secretary of Labor or by the Board's independent auditor. Additionally, the Board, through its dealings with the management of the U.S. Department of Agriculture, observes that the NFC acts on audit recommendations which might have an impact on the management of Plan assets.

7. Under federal law, FRTIB members (including the Chairman) except those filling the unexpired terms of departed members are appointed for 4-year terms. Because stability in the top ranks of executive agencies is seen as critical to the efficient accomplishment of agencies' missions, the expressed willingness of key presidential nominees to make and fulfill public commitments to serve most if not all of the prescribed terms of their positions is an important consideration to the Committee.

Are you prepared to offer a commitment at this time to complete a full term of office?

Yes.

V. RELATIONS WITH CONGRESS

1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

2. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of Congress, or its duly authorized agents, if you are confirmed?

Yes.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name:
Scott B. Lukins
2. Position to which nominated:
Member, Federal Retirement Thrift Investment Board
3. Date of nomination:
September 9, 1994
4. Address:
Residence: East 1220 Christmas Tree Lane, Spokane, Washington 99203
Business: Lukins & Annis, P.S., 717 West Sprague Avenue, Suite 1600, Spokane, Washington 99204
5. Date and place of birth:
March 23, 1929, Colfax, Washington
6. Marital status:
Married: Betty Riffenberg Lukins
7. Names and ages of children:
Kelly Diane Propp, 38, 7/5/56; Kyle Brent Lukins, 36, 9/14/58
8. Education: List secondary and higher education institutions, dates attended, degree received and date degree granted.
Clarkston High School, 1944-1947, Diploma, June, 1947
Harvard University, 1947-1951, A.B., June, 1951
University of Washington, 1951-1954, J.D., June, 1954
New York University, 1954-1955, L.L.M. (Taxation), May, 1955
9. Employment Record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.
Summer cannery employee, Green Giant, Inc., Pomeroy, Washington, 1951 and 1952.
Summer lumber mill employee, Potlatch, Inc., Lewiston, Idaho, 1953.
Attorney advisor, U.S. Tax Court, Washington, D.C., April 1957 through June 1958.
Tax research attorney, Ford Motor Company, Dearborn, Michigan, June 1958 through October 1959.
Associate attorney, Witherspoon, Kelley, Davenport & Toole, Spokane, Washington, October 1959 through December 1962.
Law partner, Butler & Lukins, Spokane, Washington, January 1963 to October 1968.
Lawyer/shareholder, Lukins, Seelye, & Randall, P.S., Spokane, Washington, October 1968 through December 1969.
Lawyer/shareholder, Lukins & Annis, P.S., Spokane, Washington, January 1970 to present.
10. Military Service: List any military service, including dates, rank, and type of discharge.
U.S. Army, Third Armored Division, August 1955 through June, 1957, clerk typist Specialist 3, honorable discharge.
11. Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.
Attorney advisor, U. S. Tax Court (1957-1958); Technical Review Group, State of Washington, Department of Revenue (1993).
12. Previous Appointments: Prior to this appointment, have you ever been nominated for a position requiring confirmation by the Senate? If so, please list each such position, including the date of nomination, Senate confirmation, and Committee hearing, if any.
No.
13. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.
Lukins & Annis, P.S., Chairman and Member of Board of Directors
Washington Trust Bank, Member of Board of Directors Bank of Pullman, Member of Board of Directors
R.A. Pearson Company, Secretary of Board of Directors W.T.B. Financial Corporation, Member of Board of Directors Community Bancorporation, Chairman and Member of Board of Directors

Reardon, Rivard, & Associates, Inc. (formerly WT Investors, Inc.), Member of Board of Directors

Idaho Forest Industries, Inc., Member of Board of Directors

Jensen-Byrd Company, Member of Board of Directors

US WEST Communications, Inc., Member of Washington State Executive Board and former Member of Board of Directors of Pacific Northwest Bell Telephone Company

Washington State University, Member and former President of Board of Regents

Spokane Intercollegiate Research & Technology Institute, Member of Board of Directors

Sacred Heart Hospital, Member of Board of Directors

Carl M. Hansen Foundation, Co-Trustee

Johnston-Fix Foundation, Co-Trustee

Johnston-Hanson Foundation, Co-Trustee

Spokane Symphony Orchestra Foundation, Member of Board of Directors

Henry L. Day Trust including six sub-trusts, Co-Trustee

Anne Day Trust, Co-Trustee

Oregon Charitable Remainder Trust, Co-Trustee

Henry Day Ellis Charitable Remainder Unitrust, Co-Trustee

Robert Priess Trust, Trustee

Janet Erickson Trust, Trustee

14. Memberships: List all memberships and offices held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

American Bar Association, Member

Washington State Bar Association, Member and former Chairman of Tax Section

Spokane County Bar Association, Member

American Bar Association, Member of Tax and Real Property, Probate and Trust Sections

American Bar Association Foundation, Fellow

American Trust and Estate Council, Fellow

Spokane Area Chamber of Commerce, Member and former Chairman of Board of Directors

Spokane Symphony Orchestra Society, Member and former President

Empire Club, Member of Board of Directors and former President

Spokane Estate Planning Council, Former Member and President

University of Washington Law School Advisory Council, Former Member

Washington State University Foundation, Member

Gonzaga University Law School, Former Instructor and Advisor

Manito Golf and Country Club, Member and former Vice President

Seattle Golf Club, Member

Spokane Club, Member

Spokane Economic Development Council, Former Member of Board of Directors

Spokane Rotary Club, Member and former Member of Board of Directors

Inland Northwest Council, Boy Scouts of America, Member of Board of Directors

Inland Northwest Foundation, former President and former Member of Board of Directors

15. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

I have served as the Chairman of the Committee to Reelect Thomas S. Foley, U.S. House of Representatives for the past 16 years. I have also served as a member of the Business Advisory Council to the former Washington state Governor, Booth Gardner, and present Governor, Mike Lowry for the past eight years. During the period, I also served as Co-Chairman of the Committee to Elect Pat Mummey, Spokane County Commissioner. I am a member of the Warren Magnusson Democratic Club, Spokane, Washington.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 5 years.

I have contributed to a great number of local, state, and federal candidates, to industry PAC's and to certain campaigns for various local and state issues. All contributions have been within proper legal limits and include the following:

Committee to Re-elect Thomas S. Foley, U.S. House of Representatives, various amounts between \$50 and \$1,000 in each of the years, 1989 through 1994.

Committee to Elect Governor Booth Gardner, State of Washington—\$1,000 in each of the years 1989, 1990, and 1991.

Committee to Elect Joe King for Governor, State of Washington—\$1,000 in 1993.

Committee to Elect Pat Mummey, Spokane County Commissioner—\$100.

Committee to Elect Charlene Cooney, Spokane County Assessor—\$50 in 1990 and \$50 in 1994.

Committee to Elect Skip Chilberg, Spokane County Commissioner—\$100.

Committee to Elect George Cheek, Spokane County Commissioner—\$100 in 1982 and \$100 in 1984.

Committee to Elect Robert Utter, Washington State Supreme Court—\$100 in 1992.

Committee to Elect Robert Whaley, Spokane County Superior Court—\$50 in 1992.

Committee to Elect Teri Eitzen, Spokane County Superior Court—\$100 in 1994.

Washington State Democratic Council—\$250 in 1992.

Spokane County Central Committee—\$100 in 1992.

Democratic Senatorial Congressional Committee—\$50 in 1991 and \$50 in 1994.

16. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Honorary Doctor of Laws, Gonzaga University, 1993.

Distinguished Eagle Scout, Boy Scouts of America, 1993.

17. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written. It would be helpful for the Committee to have three copies of each published writing. Please denote any of those for which you are unable to provide copies.

Author, "Lease with Option to Purchase: Is Allocation the Answer?", Volume 11, Tax Law Review 65 (1955).

Author, 1976 Washington Community Property Deskbook Project, Chapter 45—Federal Estate Taxes.

18. Speeches: Provide the Committee with three copies of any formal speeches you have delivered during the last 5 years of which you have copies and are on topics relevant to the position for which you have been nominated.

None.

19. Congressional Testimony: Have you ever testified before a Committee of the Congress? If so, please provide details, including date(s).

No.

20. Selection:

(a) Do you know why you were chosen for this nomination by the President?

I was selected by the President upon the recommendation of Speaker Thomas S. Foley and on the basis of my knowledge and experience in the fields of tax law, retirement planning, investments, and trusteeship.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I presently serve as a trustee of more than 10 trusts and have had extensive experience in estate and retirement planning matters. I also have served as a director to a number of business corporations, including banks, and have prepared a number of qualified retirement plans.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

No.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No. I plan to continue as an employee and shareholder of Lukins & Annis, P.S.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

The duties connected with my appointment do not require that I terminate my employment as a lawyer, trustee, or director.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

I have a normal compensation arrangement with my current employer, Lukins & Annis, P.S. I have also elected to defer a portion of my salary from that corporation and have elected to defer all of my fees as a former Director of Pacific Northwest Bell Telephone Company and as a current member of the State of Washington Executive Board of US WEST Communications, Inc. Other deferred income agreements of which I am a beneficiary include the following:

- a. Lukins & Annis, P.S. Profit Sharing Plan
- b. Lukins & Annis, P.S. Section 401(k) Plan
- c. Butler & Lukins Keogh Plan
- d. Scott B. Lukins IRA
- e. Betty R. Lukins IRA

I plan to continue to provide professional advice in my capacity as a lawyer and as a director or trustee for various corporations and trusts, and also to continue my position as a shareholder and employee of Lukins & Annis, P.S.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

I do not believe that I have any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which I have been nominated.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

I likewise do not believe I have had any business relationship, dealing or financial transactions during the last 10 years that in any way constituted a conflict of interest in the position to which I have been nominated.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

As a tax attorney, I have participated in the drafting and subsequent adoption of an amendment to the Internal Revenue Code for the purpose of extending the investment credit provisions to certain excluded religious organizations. I have also written letters and advocated legislation in favor of a number of local community organizations.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide copies of any trust or other agreements.)

Should a potential conflict of interest situation occur, I will decline to participate in either the discussion or vote on such matter by the Board of Directors.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No, not to my knowledge.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No, not to my knowledge.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Approximately 15 years ago, I was a party defendant in a civil matter involving a claim that I, or the members of my law firm, failed to provide necessary legal services in connection with the organization of a business corporation. This lawsuit was subsequently settled and dismissed.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

I believe my experience as a lawyer, director, trustee, and investment advisor qualify me for nomination to the Federal Retirement Thrift Investment Board.

E. FINANCIAL DATA

(Retained in Committee Files)

PREHEARING QUESTIONS FOR SCOTT B. LUKINS, NOMINEE, FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

1. Were any conditions, express or implied, attached to your nomination to be a member of the Federal Retirement Thrift Investment Board (FRTIB)?

No.

2. Have you made any specific commitments with respect to the basic policies and philosophy which you will follow while a Member of the Thrift Investment Board?

No.

3. To your knowledge, did persons representing interests that could be influenced by the FRTIB actively support or endorse your nomination? If so, please explain.

No.

4. Is there any issue currently under consideration by the Thrift Board, or any which may come under consideration, from which you may have to disqualify yourself? If so, please explain.

No.

5. Do you have any interest in any corporation, partnership, association, or other entity whose interest may be affected significantly by the Board?

No.

II. ROLE AND RESPONSIBILITIES OF THE POSITION TO WHICH NOMINATED

1. What do you believe are the most important responsibilities of the position to which you are nominated and what challenges do you expect to face?

Answer: I believe that the most important responsibilities I will have as a member of the FRTIB are as follows:

a. To establish and to review the policies governing the operation of the Thrift Board.

b. To establish and to monitor the policies for the administration of the Thrift Savings Plan.

c. To monitor and review the performance of the investments made for the Thrift Savings Fund.

d. To evaluate the overall job performance of the Executive Director and his or her staff and to direct the Executive Director to take such actions as the Board may consider appropriate.

2. What contributions do you feel you can make to the Thrift Board as one of its Members?

Answer: I am a practicing tax attorney and have participated in the drafting and administration of a number of different deferred compensation plans, including pension and profit sharing plans and Section 401(k) plans. I am also a trustee and fiduciary of more than ten private trusts and charitable foundations. With this background, I believe I can bring to the Board a level of experience and an understanding of the proper role of the Board of Directors in administering, as fiduciaries, the Thrift Savings Plan.

III. ROLE OF THE THRIFT BOARD

1. How do you view the role and responsibilities of the Thrift Board?

Answer: The Thrift Board has been given a number of specific statutory responsibilities under P.L. 99-335 (U.S.C. Sec. 8401, et seq). I believe that the primary responsibility of a Board member is to establish the policies which govern the investments and administration of the Thrift Savings Fund, and also to monitor and evaluate, as a prudent fiduciary, the performance of the several investment funds. I also believe it is very important to evaluate the performance of the Executive Director and in so doing to be in a position to assure the Congress that the Thrift Savings Plan is being properly administered.

2. The Thrift Board is an independent agency. What do you consider to be the proper relationship between the Board and the President and the Congress?

Answer: I view the Thrift Board's role is that of an independent government agency. As such, the role and responsibilities of the Thrift Board are clearly set forth in P.L. 99-335 (U.S.C. Sec. 8401, et seq). This statute establishes the scope and extent of the Thrift Board's responsibilities.

3. On what model do you think the Board should operate a private pension plan or a federal agency model? On what statutory basis do you base your view of the function of the Board?

Answer: I believe that the federal agency model, not the private pension plan model, is what Congress had in mind in enacting P.L. 99-335. The legislative history surrounding the passage of P.L. 99-335 reveals that while Congress determined how similar retirement plans operate in the private sector, it took great pains to limit the responsibilities of the Board to the establishment of policies for the proper investment and management of the Thrift Savings Plan. In so doing, it specifically precluded the Board from directing the Executive Director to invest or dispose of specific assets of the Thrift Savings Plan. Had Congress sought to utilize the private pension plan model, it is doubtful that it would have included this restriction.

4. How do you view the current statutory division of responsibilities between the Board members, as policy-makers, and the Executive Director, the chief executive officer of the agency?

(a) Do you consider the Executive Director to be accountable to Board members for his actions and decisions?

(b) Should there be oversight or reporting mechanisms available to Board members to keep them apprised of, or to allow evaluation of, actions or decisions taken by the Executive Director?

Answer: I consider the Executive Director to be fully accountable to the Board for his or her actions and decisions. I also believe that there needs to be an oversight or reporting mechanism available to Board members to keep them apprised of the actions and decisions taken by the Executive Director. In this regard, I believe that the statutory division of responsibilities as between the Board, in its policy-making role, and the Executive Director, as the chief administrative officer, is entirely appropriate and workable.

5. Should Board members have any management responsibilities in addition to their policy-making duties?

Answer: No. I believe that the statute is reasonably clear that Board members are responsible for establishing the policies governing investment and management of the Thrift Savings Fund, and the administration of the Thrift Savings Plan, but that the Executive Director and his or her staff are to function as the actual administrators of the Thrift Savings Plan and the Thrift Savings Fund. In its fiduciary role, the Board is given the additional responsibility of evaluating the performance of the Executive Director and his or her staff, as well as to "take such other actions as may be necessary to carry out the functions of the Board".

6. Do you consider a long-term planning policy for the Board to be required by statute?



Answer: While there is no specific reference in P.L. 99-335 that the Board consider a long-term planning policy, still the all encompassing authority to "take such other actions as may be necessary to carry out the functions of the Board" can be interpreted as permitting such consideration. I personally believe that it is very worthwhile for any board to develop a long-term approach to policy-making, and that this should be true here as well.

7. Do you believe the current funding system is adequate? Are there any changes you would like to see made?

Answer: While it is my understanding that the current funding system is adequate, I have not studied this issue in sufficient depth to as yet express a firm opinion. I also will require further study of the operation of the Thrift Investment Board before recommending any specific changes to the Board's policies.

IV. OPERATIONS OF THE THRIFT BOARD

1. Federal employees participating in the TSP currently have the option of investing in one or more of three investment funds: a government securities fund, a common stock fund, and a fixed income fund. The Thrift Investment Board is beginning to evaluate investment options, for example, a stock fund based on foreign stocks.

It seems clear that the federal government should attempt to maintain competitive pay and benefits relative to other employers, in order to attract and retain quality people in the career federal service.

(a) What is your assessment of the current competitiveness of the TSP relative to other employer-sponsored retirement investment/savings plans?

Answer: While I have not yet had an opportunity to analyze and compare the provisions of a number of other thrift savings plans, it is my understanding that the Thrift Savings Plan is quite competitive with such plans. Not only has the Thrift Savings Plan maintained a satisfactory overall earnings history in each of its three investment categories, but the Plan's administrative overhead burden appears to be less than that in competitive plans. One area in which the Thrift Savings Plan might be improved would be in allowing one or more additional investment choices such as, for example, a foreign stock fund or a fund for the equities of emerging nations.

(b) What administrative and legislative modification(s), if any, do you think would benefit the TSP without significantly increasing costs to the government?

Answer: Once again, I would think that the addition of one or more alternative categories of investment choice would make the TSP more attractive to participants while not adding any significant cost to the Government.

2. When the FERS system was designed, the TSP portion of the FERS retirement benefits package was intended to provide a large part of the retirement incomes of those who complete federal service careers. While active participation in the TSP among FERS employees has gradually increased in the years since its inception (to about 75% as of March 1994), a significant number of FERS employees—many of whom are newer, lower-salaried employees—are not actively participating.

(a) What do you think the FRTIB can do to increase the participation rate?

Answer: The Thrift Savings Board might wish to consider, as a means of encouraging greater participation, the adoption of an enhanced employee information program to publicize the importance of greater use of the Thrift Savings Plans as an important supplement to the basic retirement plan provided for Federal employees. While it may well be difficult to significantly increase the utilization of the Thrift Savings Plan by newer, lower-salaried employees, a continuing effort should nevertheless be undertaken to accomplish this goal.

(b) Do you think there are attributes of the current TSP that actually discourage FERS employees from program participation? If so, what might be done to reduce that adverse impact?

Answer: I am not aware of any specific attribute of the current TSP that discourages FERS employees from program participation, although it may be true that an enhanced opportunity to borrow vested plan benefits would be worth considering.

3. Among a number of proposals reportedly under consideration by the Bipartisan Commission on Entitlements and Tax Reform to reduce current federal entitlement program costs is a proposal to reduce the amount of the government's contribution to the TSP accounts of FERS employees. Do you favor the implementation of such a proposal?

Answer: No, I feel that, if anything, an increase in the government's contribution to the TSP accounts might be warranted, especially in the case of lower-paid government employees.

4. Some civil service annuitants (including survivor annuitants) have expressed an interest in participating in the TSP under essentially the same conditions as do current CSRS covered employees (i.e., that they be allowed to invest up to 5% of their gross civil service annuities in the TSP without any matching government contributions)

These annuitants point to the fact that they are already allowed to participate in the other major employee benefits programs (the Federal employee health benefits and life insurance programs) as retirees. Since the fund's administrative expenses are largely paid from earnings on participant contributions, the government's net costs for allowing their participation might not significantly increase. Recognizing that legislation would be necessary to accomplish such a change—

(a) What do you see as the pros and cons of this proposal?

Answer: From the standpoint of the individual civil service annuitant, there is an obvious advantage of being able to defer the date on which annuity payments are received, as this provides a further opportunity for a tax-free build-up in the value of the postponed annuity. From the standpoint of the Thrift Savings Fund and Plan, however, there could be some concern, as the initial size of the participant account balance would presumably be small and there would be no amount of forfeitures to apply against the administration costs entailed in adding additional participants to the Plan. Experience tells me that it would be important to ascertain the number of potential civil service annuitants who might utilize the Thrift Savings Plan before considering whether to extend participation to such annuitants.

(b) Do you favor its implementation in principle?

Answer: Before answering this questions I would want to review additional statistical information and consider other pro and con arguments. I should mention, however, that the cost of administering a number of small accounts is frequently disproportionate to the overall efficiency of administering the TSP and, therefore, might be considered a negative.

5. Currently, a federal employee is permitted to borrow from his or her TSP account in only a very limited number of circumstances (i.e., for purchase of a primary residence, to meet education or medical expenses, or for reasons of financial hardship).

Those who favor narrow limits on borrowing argue that TSP funds are intended to provide a key part of a retiree's post-employment income and should, therefore, be accessible only on a very sparing basis prior to retirement. Those who favor expanding the current borrowing provisions argue that these funds belong not to the government but to the employees, and that these funds should therefore be made available to the employees when and as they deem appropriate.

Do you favor any changes to the current restrictions on borrowing?

Answer: No. The underlying rationale for a thrift savings plan is to encourage employee savings as a mechanism for supplementing employee retirement income. To this end, a partial "match" is provided by the employer. It has been my experience as a draftsman and as an advisor to a number of private sector 401(k) plans that broadly-based "borrowing" and "repayment" provisions, such as the one administered by the FRTIB, are both difficult and expensive to administer, and that they tend to undermine the very reason for which the savings plan was adopted (i.e., to enhance retirement income). I, therefore, would not favor expanding the current borrowing provisions.

6. The FRTIB has an agreement with the Department of Agriculture's National Finance Center (NFC), in New Orleans, Louisiana, to provide recordkeeping services for the TSP, and the NFC maintains the accounts of TSP participants. In recent years, the NFC has assumed an increasingly large and complex financial management role as more and more agencies have found it more cost-effective and expeditious to have NFC provide for their financial management needs than to operate their own financial management systems.

What evaluative and/or system safeguards do you think the FRTIB should prudently have in place to ensure that the NFC provides consistently timely and accurate financial management support for the TSP?

Answer: From the standpoint of the FRTIB Board, it will be important that the participants in the TSP be satisfied with not only the accuracy and adequacy of the information provided to them by the FRTIB Board, but that the information be provided in a timely manner. To this end, it would seem appropriate that the FRTIB maintain a system which audits and evaluates the timely performance by the NFC of the record-coding duties assumed by it, and that the cost of the service be measured against alternative methods of delivering the same service through a different source.

7. Under federal law, FRTIB members (including the Chairman) except those filling the unexpired terms of departed members are appointed for 4-year terms. Because stability in the top ranks of executive agencies is seen as critical to the efficient accomplishment of agencies' missions, the expressed willingness of key presidential nominees to make and fulfill public commitments to serve most if not all of the prescribed terms of their positions is an important consideration to the Committee.

Are you prepared to offer a commitment at this time to complete a full term of office?

Yes.

V. RELATIONS WITH CONGRESS

1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

2. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of Congress, or its duly authorized agents, if you are confirmed?

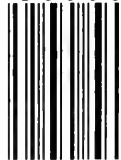
Yes.



ISBN 0-16-046661-X



90000



9 780160 466618

